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2 THE HONORABLE BENJAMIN H. SETTLE
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 EQUAL EMPLOYMENT OPPORTUNITY
10 COMMISSION,

11 Plaintiff,

12 v.

13 KOELSCH SENIOR COMMUNITIES,
14 LLC and THE HAMPTON AT SALMON
15 CREEK, LLC

16 Defendants.

17 REBECCA FLORES,

18 Plaintiff – Intervenor,

19 v.

20 KOELSCH SENIOR COMMUNITIES,
21 LLC and THE HAMPTON AT SALMON
22 CREEK, LLC,

23 Defendants.

24 No. 3:18-cv-05792 BHS

25 PLAINTIFF-INTERVENOR REBECCA
26 FLORES' AMENDED COMPLAINT
FOR DAMAGES

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action for declaratory relief, equitable relief, and monetary damages, instituted to secure the protection of and redress the deprivation of rights secured by Title VII of the Civil Rights Act of 1964 (“Title VII”), the Washington Law Against Discrimination, RCW 49.60 *et seq.* (“WLAD”), RCW 49.52 *et seq.*, RCW 49.48 *et seq.*, and Washington State common law to correct unlawful employment practices and provide relief to Plaintiff-Intervenor Rebecca Flores (“Plaintiff-Intervenor” or “Ms. Flores”). Plaintiff-Intervenor alleges Defendants Koelsch Senior Communities, LLC and The Hampton at Salmon Creek, LLC (collectively, “Defendants” or “Koelsch”) violated state and federal law by subjecting Ms. Flores to a hostile work environment because of sex, retaliating against her, and constructively discharging her. Ms. Flores seeks monetary and injunctive relief, including pecuniary and non-pecuniary damages, compensatory damages, and punitive damages to the fullest extent allowed by law.

JURISDICTION AND VENUE

1. Jurisdiction is proper pursuant to 28 U.S.C. § 1331 since Plaintiff-Intervenor alleges claims that comprise a federal question.

2. This Court has jurisdiction over Plaintiff-Intervenor's state claims pursuant to 28 U.S.C. § 1367.

3. Venue of this Court is invoked under 28 U.S.C. § 1391.

PARTIES

4. Plaintiff-Intervenor Ms. Flores is a resident of the State of Washington.

5. Plaintiff, the Equal Employment Opportunity Commission, is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

6. Defendant Koelsch Senior Communities, LLC is a Washington State limited liability corporation.

7. Defendant The Hampton at Salmon Creek, LLC a Washington State limited liability corporation.

8. Defendant The Hampton at Salmon Creek, LLC employed Plaintiff-Intervenor at all times material hereto.

9. Defendant Koelsch Senior Communities, LLC employed Plaintiff-Intervenor at all times material hereto.

10. In the alternative, Defendant Koelsch Senior Communities, LLC and/or Defendant The Hampton at Salmon Creek, LLC constructively employed Plaintiff-Intervenor such that it acted as her joint employer.

11. At all relevant times, Defendants were employers engaged in an industry affecting commerce, and had the requisite number of employees under the aforementioned statutes.

ADMINISTRATIVE PROCEDURES

12. On March 23, 2016, Ms. Flores filed a charge of discrimination with the EEOC alleging gender discrimination and retaliation.

13. On May 31, 2018, the Commission issued to Defendants a Letter of Determination finding reasonable cause to believe that Title VII was violated and inviting Defendant to join with the Commission in informal methods of conciliation to endeavor to eliminate the discriminatory practices and provide appropriate relief.

14. The Commission engaged in communications with Defendants to provide Defendant the opportunity to remedy the discriminatory practices described in the Letter of Determination.

15. The Commission was unable to secure from Defendants a conciliation agreement acceptable to the Commission.

16. On July 19, 2018, the Commission issued to Defendants a Notice of Failure of Conciliation.

17. On September 28, 2018, the EEOC filed suit against Defendant Koelsch Senior Communities, LLC.

18. All conditions precedent to the institution of this lawsuit have been fulfilled.

19. Plaintiff-Intervenor has an unconditional right to intervene under Title VII, 42 U.S.C. § 2000e-5(f)(1).

STATEMENT OF CLAIMS

20. Since at least June 2015, as described in greater particularity below, Defendants have engaged in unlawful employment practices in violation of Section 703(a) of Title VII, the WLAD, and Washington State public policy by discriminating against Ms. Flores based on her sex, subjecting her to an unwelcome, hostile work environment because of sex, retaliating against Ms. Flores when she complained about sex discrimination, and constructively discharging her.

- a. Koelsch's Activities Director engaged in unwelcome conduct of a sexual nature including but not limited to: seeking foot massages from Ms. Flores; requesting that Ms. Flores "get on all fours" for a wrestling demonstration; placing Ms. Flores in a choke hold; discussing intimate details about her marriage with Ms. Flores, including dating and sexual practices; and telling Ms. Flores she wanted to "rub her butt."

b. Ms. Flores complained to Koelsch upper management in late September 2015 about the Activities Director's sexually harassing conduct, but Defendants failed to take prompt action to correct the discriminatory conduct or prevent it from recurring. Instead, Koelsch told Ms. Flores that the Activities Director would remain employed and that Koelsch would "sure hate to lose" Ms. Flores, which she understood to be a warning not to complain further.

- 1 c. The Activities Director continued to subject Ms. Flores to a hostile work
2 environment because of sex following Ms. Flores's late September 2015
3 complaint, including but not limited to: rubbing Ms. Flores's breast on the
4 pretense of cleaning her blouse; joking about "butts"; and commenting
5 that Ms. Flores could be a "pole dancer."
- 6 d. On or about January 18, 2016, Ms. Flores complained about the Activities
7 Director's ongoing, sexually harassing conduct. Again, Defendants failed to take
8 prompt action to correct the discriminatory conduct or prevent it from recurring,
9 leading Ms. Flores to feel intimidated and fearful of complaining further.
- 10 e. Koelsch retaliated against Ms. Flores after she complained about discrimination,
11 including but not limited to: threatening her job and telling her they would "sure
12 hate to lose" her; changing her work schedule and cutting her hours; and denying
13 Ms. Flores a promotion to the position of Activity Director.
- 14 f. After she complained, Koelsch constructively discharged Ms. Flores.

15 21. Defendants wrongfully discharged Ms. Flores in violation of Washington State
16 public policies against gender discrimination.

17 22. Defendants' wrongful termination of Ms. Flores caused her to lose wages in
18 violation of RCW 49.52 *et seq.* and RCW 49.48 *et seq.*

19 23. The effect of the practices complained of in the above paragraphs has been to
20 deprive Ms. Flores of equal employment opportunities and otherwise adversely affect her
21 status as an employee.

22 24. The effect of the practices complained of in the above paragraphs has been to
23 deprive Ms. Flores of equal employment opportunities and otherwise adversely affect her
24 status as an employee because her sex, female.

25 25. The unlawful employment practices complained of in the above paragraphs
26 were intentional.

RESERVATION OF RIGHTS

26. Plaintiff-Intervenor reserves the right to add, revise, or withdraw any claims, or add additional parties during the course of the litigation as information is obtained through litigation.

27. This complaint does not include each and every legal theory that supports Plaintiff's claims and damages that may be presented at trial.

PRAYER FOR RELIEF

Wherefore, Ms. Flores respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, its officers, successors, agents, assigns, and all persons in active concert or participation with them, from engaging in any other unlawful employment practices.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for all employees, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendants to make Plaintiff-Intervenor whole by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendants to make Plaintiff-Intervenor whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in the above paragraphs, including out-of-pocket expenses, in an amount to be determined at trial.

E. Order Defendants to make Plaintiff-Intervenor whole by providing compensation for past and future non-pecuniary losses resulting from the acts complained of in the above paragraphs, including without limitation emotional harm, physical pain, suffering, humiliation, impact to Plaintiff-Intervenor's career and reputation, and loss of enjoyment of life, in an amount to be determined at trial.

F. Order Defendants to pay Plaintiff-Intervenor punitive damages for the conduct described in the above paragraphs, in amounts to be determined at trial, to the fullest extent allowed by law.

G. Order Defendants to make Plaintiff-Intervenor by providing relief under RCW 49.48 et. seq., and RCW 49.52 et. seq, or any other applicable statute, including awarding double damages.

H. Order Defendants to pay Plaintiff-Intervenor for any and all tax consequences associated with the damages and cost award, including but not limited to attorney's fees.

I. Award Plaintiff-Intervenor the costs of this action, including attorney's fees, expert fees, and all other costs to the fullest extent allowed by law.

J. Award Plaintiff-Intervenor other damages including prejudgment interest and post-judgment interest.

K. Grant any additional or further relief as provided by law, which this Court finds appropriate, equitable, or just.

DATED this 3rd day of June, 2019.

THE BLANKENSHIP LAW FIRM, PLLC

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DECLARATION OF SERVICE

I hereby certify under penalty of perjury under the laws of the State of Washington that on the date and in the manner listed below I caused delivery of a true copy of the attached document to the following:

Attorneys for Plaintiff EEOC:

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- by First Class Mail
- by Hand Delivery
- by Overnight Delivery
- by Notification via E-filing System

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18

19 DATED this 3rd day of June, 2019, at Seattle, Washington.

20

21 s/ Scott C.G. Blankenship

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